

Introduced by Senator McClintock

February 22, 2008

An act to amend Section 54.1 of the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 1766, as introduced, McClintock. Disability: access.

Existing law provides that individuals with disabilities are entitled to full and equal access to accommodations, advantages, facilities, privileges of various modes of transportation, and as specified.

This bill would set forth the duty of an individual with a disability who in good faith believes that a public accommodation or housing accommodation does not provide full and equal access, to notify the owner or manager of that accommodation. The bill would also set forth the duty of the owner or manager, or other responsible party, to notify the individual of planned access improvements, as defined, and to make those improvements within 6 months, during which period the individual would be prohibited from commencing a cause of action under any state disabled access law. The bill would provide that the owner of the property upon which the accommodation is located, if different from the owner of the accommodation, is responsible for the cost of any access improvements made in response to the notification provided by an individual with a disability pursuant to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54.1 of the Civil Code is amended to
2 read:

3 54.1. (a) (1) Individuals with disabilities shall be entitled to
4 full and equal access, as other members of the general public, to
5 accommodations, advantages, facilities, medical facilities,
6 including hospitals, clinics, and physicians' offices, and privileges
7 of all common carriers, airplanes, motor vehicles, railroad trains,
8 motorbuses, streetcars, boats, or any other public conveyances or
9 modes of transportation—~~(whether, whether private, public,~~
10 ~~franchised, licensed, contracted, or otherwise provided)~~ *provided,*
11 telephone facilities, adoption agencies, private schools, hotels,
12 lodging places, places of public accommodation, amusement, or
13 resort, and other places to which the general public is invited,
14 subject only to the conditions and limitations established by law,
15 or state or federal regulation, and applicable alike to all persons.

16 (2) As used in this section, "telephone facilities" means tariff
17 items and other equipment and services that have been approved
18 by the Public Utilities Commission to be used by individuals with
19 disabilities in a manner feasible and compatible with the existing
20 telephone network provided by the telephone companies.

21 (3) "Full and equal access," for purposes of this section in its
22 application to transportation, means access that meets the standards
23 of Titles II and III of the Americans with Disabilities Act of 1990
24 (Public Law 101-336) and federal regulations adopted pursuant
25 ~~thereto to those standards,~~ except that, if the laws of this state
26 prescribe higher standards, it ~~shall mean~~ *means* access that meets
27 those higher standards.

28 (b) (1) Individuals with disabilities shall be entitled to full and
29 equal access, as other members of the general public, to all housing
30 accommodations offered for rent, lease, or compensation in this
31 state, subject to the conditions and limitations established by law,
32 or state or federal regulation, and applicable alike to all persons.

33 (2) "Housing accommodations" means any real property, or
34 ~~portion thereof~~ *of real property,* that is used or occupied, or is
35 intended, arranged, or designed to be used or occupied, as the
36 home, residence, or sleeping place of one or more human beings,
37 ~~but shall~~ *does* not include any accommodations included within
38 subdivision (a) or any single-family residence the occupants of

1 which rent, lease, or furnish for compensation not more than one
2 room ~~therein~~ *of the residence*.

3 (3) (A) Any person renting, leasing, or otherwise providing
4 real property for compensation shall not refuse to permit an
5 individual with a disability, at that person's expense, to make
6 reasonable modifications of the existing rented premises if the
7 modifications are necessary to afford the person full enjoyment of
8 the premises. However, any modifications under this paragraph
9 may be conditioned on the disabled tenant entering into an
10 agreement to restore the interior of the premises to the condition
11 existing prior to the modifications. No additional security may be
12 required on account of an election to make modifications to the
13 rented premises under this paragraph, but the lessor and tenant
14 may negotiate, as part of the agreement to restore the premises, a
15 provision requiring the disabled tenant to pay an amount into an
16 escrow account, not to exceed a reasonable estimate of the cost of
17 restoring the premises.

18 (B) Any person renting, leasing, or otherwise providing real
19 property for compensation ~~shall~~ *may* not refuse to make reasonable
20 accommodations in rules, policies, practices, or services, when
21 those accommodations may be necessary to afford individuals with
22 a disability equal opportunity to use and enjoy the premises.

23 (4) Nothing in this subdivision ~~shall require~~ *requires* any person
24 renting, leasing, or providing for compensation real property to
25 modify his or her property in any way or provide a higher degree
26 of care for an individual with a disability than for an individual
27 who is not disabled.

28 (5) Except as provided in paragraph (6), nothing in this part
29 ~~shall require~~ *requires* any person renting, leasing, or providing for
30 compensation real property, if that person refuses to accept tenants
31 who have dogs, to accept as a tenant an individual with a disability
32 who has a dog.

33 (6) (A) It shall be deemed a denial of equal access to housing
34 accommodations within the meaning of this subdivision for any
35 person, firm, or corporation to refuse to lease or rent housing
36 accommodations to an individual who is blind or visually impaired
37 on the basis that the individual uses the services of a guide dog,
38 an individual who is deaf or hearing impaired on the basis that the
39 individual uses the services of a signal dog, or to an individual
40 with any other disability on the basis that the individual uses the

1 services of a service dog, or to refuse to permit such an individual
2 who is blind or visually impaired to keep a guide dog, an individual
3 who is deaf or hearing impaired to keep a signal dog, or an
4 individual with any other disability to keep a service dog on the
5 premises.

6 (B) Except in the normal performance of duty as a mobility or
7 signal aid, nothing contained in this paragraph ~~shall~~ *may* be
8 construed to prevent the owner of a housing accommodation from
9 establishing terms in a lease or rental agreement that reasonably
10 regulate the presence of guide dogs, signal dogs, or service dogs
11 on the premises of a housing accommodation, ~~nor shall this~~
12 ~~paragraph be construed to~~ *or* relieve a tenant from any liability
13 otherwise imposed by law for real and personal property damages
14 caused by ~~such a dog~~ *those dogs* when proof of the same exists.

15 (C) (i) As used in this subdivision, “guide dog” means any
16 guide dog that was trained by a person licensed under Chapter 9.5
17 (commencing with Section 7200) of Division 3 of the Business
18 and Professions Code or as defined in the regulations implementing
19 Title III of the Americans with Disabilities Act of 1990 (Public
20 Law 101-336).

21 (ii) As used in this subdivision, “signal dog” means any dog
22 trained to alert an individual who is deaf or hearing impaired to
23 intruders or sounds.

24 (iii) As used in this subdivision, “service dog” means any dog
25 individually trained to the requirements of the individual with a
26 disability, including, but not limited to, minimal protection work,
27 rescue work, pulling a wheelchair, or fetching dropped items.

28 (7) It shall be deemed a denial of equal access to housing
29 accommodations within the meaning of this subdivision for any
30 person, firm, or corporation to refuse to lease or rent housing
31 accommodations to an individual who is blind or visually impaired,
32 an individual who is deaf or hearing impaired, or other individual
33 with a disability on the basis that the individual with a disability
34 is partially or wholly dependent upon the income of his or her
35 spouse, if the spouse is a party to the lease or rental agreement.
36 Nothing in this subdivision, however, ~~shall prohibit~~ *prohibits* a
37 lessor or landlord from considering the aggregate financial status
38 of an individual with a disability and his or her spouse.

39 (c) Visually impaired or blind persons and persons licensed to
40 train guide dogs for individuals who are visually impaired or blind

1 pursuant to Chapter 9.5 (commencing with Section 7200) of
2 Division 3 of the Business and Professions Code or guide dogs as
3 defined in the regulations implementing Title III of the Americans
4 with Disabilities Act of 1990 (Public Law 101-336), and persons
5 who are deaf or hearing impaired and persons authorized to train
6 signal dogs for individuals who are deaf or hearing impaired, and
7 other individuals with a disability and persons authorized to train
8 service dogs for individuals with a disability, may take dogs, for
9 the purpose of training them as guide dogs, signal dogs, or service
10 dogs in any of the places specified in subdivisions (a) and (b).
11 These persons shall ensure that the dog is on a leash and tagged
12 as a guide dog, signal dog, or service dog by identification tag
13 issued by the county clerk, animal control department, or other
14 agency, as authorized by Chapter 3.5 (commencing with Section
15 30850) of Division 14 of the Food and Agricultural Code. In
16 addition, the person shall be liable for any provable damage done
17 to the premises or facilities by his or her dog.

18 (d) A violation of the right of an individual under the Americans
19 with Disabilities Act of 1990 (Public Law 101-336) also constitutes
20 a violation of this section, and nothing in this section ~~shall~~ *may* be
21 construed to limit the access of any person in violation of that act.

22 (e) Nothing in this section ~~shall preclude~~ *precludes* the
23 requirement of the showing of a license plate or disabled placard
24 when required by enforcement units enforcing disabled persons
25 parking violations pursuant to Sections 22507.8 and 22511.8 of
26 the Vehicle Code.

27 (f) (1) *An individual with a disability who in good faith believes*
28 *that a public accommodation or housing accommodation does not*
29 *provide full and equal access to that accommodation, as required*
30 *by this section, Section 51, 52, 54, or 54.2, or Section 4450, 4451,*
31 *4452, or 4456 of the Government Code, shall notify the*
32 *accommodation by sending a certified letter addressed to the owner*
33 *or manager of that accommodation. The certified letter shall*
34 *clearly identify the specific access problems.*

35 (2) *Upon receipt of the certified letter, the owner or manager,*
36 *or other responsible party as designated by the owner or manager,*
37 *shall comply with the following:*

38 (A) *Within 60 days from receipt of the certified letter, respond*
39 *in writing to that individual and provide a description of the access*
40 *improvements that are being made or will be made pursuant to*

1 *subparagraph (B). For purposes of this section, “access*
2 *improvements” are improvements made on a voluntary basis,*
3 *irrespective of any law, regulation, or court order that may require*
4 *the improvements.*

5 *(B) Within six months from receipt of the certified letter, act in*
6 *good faith to make appropriate access improvements. These*
7 *improvements need not be completed in six months if there is good*
8 *cause for delay. “Good cause” includes, but is not limited to,*
9 *weather, application for required permits, the availability of*
10 *contractors, consultants, experts, or attorneys, unforeseen*
11 *circumstances, or similar delays.*

12 *(3) An individual with a disability may not commence a cause*
13 *of action against any public accommodation or housing*
14 *accommodation for an alleged violation of any section described*
15 *in paragraph (1) until six months after the owner or manager of*
16 *the accommodation receives the certified letter.*

17 *(4) The owner of the property upon which the accommodation*
18 *is located, if different from the owner of the accommodation, shall*
19 *be responsible for the cost of any access improvements made in*
20 *response to the notice required by paragraph (1).*